# TENNESSEE GENERAL ASSEMBLY FISCAL REVIEW COMMITTEE



## **FISCAL NOTE**

SB 1862 - HB 1850

March 4, 2014

**SUMMARY OF BILL:** Requires contractors working on public construction projects pursuant to Tenn. Code Ann. § 4-15-102(a)(1) or (2) to employ Tennessee residents to perform at least 80 percent of the work. Authorizes the State Building Commission (SBC) or the Commissioner of the Department of Transportation (TDOT) to waive such requirement if there is reasonable evidence that there is insufficient Tennessee labor to perform the work and compliance with such requirement would substantially delay or prevent completion of the project. Creates an administrative process for receiving complaints, adjudicating violations, and imposing fines for non-compliance. Requires a fine of \$5,000 or an amount equal to one percent of the cost of the contract, whichever is less, for the first violation; \$10,000 or an amount equal to one percent of the cost of the contract, whichever is less, for a second violation; and \$25,000 or an amount equal to one percent of the cost of the contract, whichever is less, for a third or subsequent violation. Authorizes a contractor found to be in violation to appeal the finding, and requires the SBC or the Commissioner of TDOT to hold a hearing in accordance with the Uniform Administrative Procedures Act. The SBC or the Commissioner may conduct the hearing or appoint an administrative law judge from the Secretary of State to preside over the hearing. Modifies reciprocity standards for non-resident bidders. Requires the SBC and/or the Commissioner to survey and compile a list of states providing a bidding preference in construction contracts to resident bidders by July 1, 2015. Such list shall be updated each year, submitted to the General Assembly, and made available to the public on the SBC or the Commissioner's website

#### **ESTIMATED FISCAL IMPACT:**

Increase State Revenue – Not Significant Increase State Expenditures - \$151,700

Other Fiscal Impact – According to the Department of Transportation, federal regulations prohibit state transportation departments from using local or instate preferences when using federal aid dollars. Requiring the Department's contractors to utilize Tennessee residents to perform at least 80 percent of the work relating to roads or highway construction projects could jeopardize \$975,000,000 in federal funding.

#### Assumptions:

- According to the Department of General Services, in order to monitor compliance with the proposed bill, the Department would require two additional staff positions resulting in a recurring increase in state expenditures of \$151,682 [(\$56,664 salaries + \$19,177 benefits and insurance) x 2 positions].
- According to the TDOT, federal regulations prohibit state transportation departments
  from using local or instate preferences when using federal aid dollars. Requiring
  TDOT's contractors to utilize Tennessee residents to perform at least 80 percent of the
  work relating to roads or highway construction projects could jeopardize \$975,000,000
  in federal funding.
- The Secretary of State's Office assumes fewer than 12 cases per year, with each case averaging no more than eight hours; therefore, any increase in the workload for the administrative law judges can be accommodated within existing resources.
- A not significant increase in revenue from collection of additional civil penalties.

### **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

Lucian D. Geise, Executive Director

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